

STARK URGES HHS INSPECTOR GENERAL TO INCREASE OVERSIGHT OF JCAHO

Thursday, 15 January 2009

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January 15, 2003

The Honorable Janet Rehnquist

Office of the Inspector General

Dear Inspector General Rehnquist:

In reviewing your FY 2003 Work Plan, I was encouraged to see that the issue of hospital quality oversight is on your agenda. This is a critical issue and one that deserves a priority. I understand that you will be revisiting areas of concern highlighted in the commendable 1999 Office of the Inspector General (OIG) report "The External Review of Hospital Quality, A Call for Greater Accountability". I have additional concerns, which are outlined below and were not addressed in the 1999 report, that take on added significance given Medicare's extensive reliance on the Joint Commission on Accreditation of Health Care Organizations (JCAHO) to assure quality of care and patient safety in our hospitals. I request that you address these issues during your upcoming review of the hospital quality oversight issue.

JCAHO recently announced that in 2004 they would be converting to a self-assessment oriented hospital survey protocol. This protocol appears even more collegial and less regulatory in nature than the current survey. In addition, its reliance on extensive self-assessment activities is particular cause for concern. In the most recent Center for Medicare and Medicaid Services (CMS) Report to Congress, validation studies indicated that JCAHO was least reliable in assessing Medicare Conditions of Participation (CoPs) when self-assessment activities were a primary component of the monitoring process. Now, it will be the predominant component of the entire survey! I am requesting that you investigate whether the proposed new procedure can effectively assess compliance with the Medicare CoPs and assure quality and safety in Medicare participating hospitals.

In addition, JCAHO business practices appear fraught with potential for conflict of interest. More

specifically, JCAHO, through its subsidiary Joint Commission Resources (JCR), has been aggressively pursuing and obtaining consulting contracts with the very institutions that they are surveying. According to the most recent financial information available, this consulting entity had a \$5 million excess on \$16 million of revenue----an exceedingly good "profit margin" for a not-for profit entity. While JCAHO has attempted to establish a "fire-wall" between its surveying and consulting entities, note that half the JCR Board members are also members of the JCAHO Board of Directors. It is difficult for me to understand how this consulting business cannot have a negative influence on the surveying activities. I hope we don't have to see the equivalent of the cataclysmic events that occurred in the financial arena with Arthur Anderson, Enron, Global Crossing and others to realize the problems of mixing regulatory and consulting functions. Similarly, recent JCAHO financial reports show more than \$750,000 in contributions from non-identified sources. Without knowing the identity of these sources, there is a specter of undue influence eroding the impartiality of the surveying process. I am requesting that you investigate these business practices, determine whether there is a conflict of interest between competing functions that interferes with JCAHO effectively fulfilling its quality oversight duties, and make any necessary recommendations for change.

I look forward to receiving a plan and timetable for addressing these issues. Please contact Neil Kirschner on my staff at (202) 225-5065 if you have any questions.

Sincerely,

Rep. Pete Stark